

# The Carlsbad Current

## AND NEW MEXICO SUN

SIXTEENTH YEAR

CARLSBAD, NEW MEXICO, FRIDAY, MARCH, 20 1908.

NUMBER 18

### THE DISTRICT COURT

**Jury in Lewis Murder Trial return Verdict of "Guilty of Murder in the Second Degree."**

**B. M. MITCHELL ON TRIAL**

**C. U. McCrary, of Artesia, Assisting Bujac & Brice in the Defense.**

George H. Buss of Roswell, was recalled to the stand to testify in the Moses Lewis murder case Thursday morning and was the first witness after convening of the court at 9 o'clock.

B. A. Reuter, formerly of Roswell, but now of Meek, N. M., testified that he also was a member of the party that made the search for the body.

There was an important witness in the person of Grover James, a young farmer lad who had been working with Lewis and Terhune baling hay. He stated that the last time he saw Terhune alive was in the company of Lewis about noon July 30th last year and at that time he made arrangements with Terhune to assist him next day. On the morning of July 31st Lewis put in appearance about 7 to 7:30 o'clock and explained Terhune's absence by saying that he was engaged in other work and he had come to take his place. It is the contention of the defense that Lewis had the difficulty with Terhune on the morning of July 31st and after burying the body because of fright and ignorance he put in appearance for work with Grover James. The theory of the prosecution, it is said, has been that Lewis murdered Terhune in cold-blood on the night of July 30th and hauled the body in the darkness of the night and buried it in the irrigation ditch. James further testified that Lewis told him that Mrs. Terhune was the best woman in the world and he wished he had one just like her.

F. W. Crain, a blacksmith of Dexter, was examined and developed some important points for the prosecution. His testimony was that he was in the Chaves county jail on the Saturday after the body of Terhune had been found and exhumed and he heard Lewis tell a Mrs. Carter certain points about the homicide. About the following conversation was held:

"Mose did you kill Terhune?"  
"Yes."  
"What did you do it for?"  
"I don't know."

At this time Mrs. Carter broke down and said: "Mose I hope you'll get for giveness for what you have done" and the prisoner replied, "I don't think so it is too late now."

J. A. Terhune, of Iowa Park, Texas, father of the slain man testified as to the size and age of his deceased son. He was 25 years of age last April, 6 feet and 1 inch in height and weighed about 170 pounds. He also testified that the widow of his son was with her mother in Arkansas and was unable to be here as a witness, as a visit from the stork was scheduled for the very near future.

The prosecution rested their case at this juncture and the first witness for the defense was W. S. Mussenden, of the civil engineering firm of Ririe & Mussenden, of Roswell, and what the defense introduced was expert testimony. He displayed and explained to the jury a large map that he had drawn of the premises where the alleged homicide was committed. He had measured the distance from the house to the grave and it was about 2,200 feet or nearly a half a mile. He

expressed the opinion that the grave could be dug and filled up by one man in 2 1/2 hours.

William P. Lenox, of Roswell, who was a member of the searching party, was the next witness for the defense. He stated that in his opinion the rock found on the body in the grave did not weigh over forty pounds, and some witnesses for the prosecution had stated that in their opinion it would weigh about one hundred pounds.

Attorney John T. McClure, of the defense took the stand and was the last witness before adjournment Thursday afternoon and a night session was held. Mr. McClure had visited the grave some time after the body had been exhumed and in the bottom of the grave he discovered a rock of gypsum formation. He offered a piece of the rock in evidence. He also had four different photographs of the house near where it is alleged Terhune met his death and these pictures were shown to the jury.

Saturday afternoon after more than a day spent in talking by the attorneys in the Mose Lewis case the final end came at 4:15 p. m., when after a very lengthy charge by Judge Pope to the jury the case was finally closed and the jury retired to deliberate and note on guilt and innocence of the defendant. It is said that the first vote stood ten for first degree to two for second

Lewis will have to accept the fate given him by Judge Pope. After the trial Mr. Elliott told Lewis that it was all over and that what he said now would not affect him in the least, and asked him, in a way of payment for his services as attorney, to give him the straight story of the killing of Terhune. Lewis' only answer was that it happened just as he told him on the stand. T. W. Mathis, of Wichita Falls, Texas, an eminent criminal lawyer was hired by the dead man's father to assist in the prosecution.

Messrs. Elliott, McClure and Deputy Sheriff O. Z. Finley returned Sunday morning from Carlsbad. Lewis will be taken from Carlsbad after sentence is imposed directly to the penitentiary at Santa Fe.

Several civil cases were disposed of Saturday evening and Monday morning at nine a. m., court convened to empanel the grand jury. The following grand jurors were excused:

S. T. Bitting, J. A. Froman, Carsten Ratiff, J. R. Blair and E. R. Gesler.

J. T. Cooper and Geo. Lucas were appointed as bailiffs to have charge of the jury. After much work in examination and many being rejected for cause the following trial jury was duly sworn in: W. J. Gossett, Doc Reed, Geo. Kline, Watson Cook, D. W. Morgan, W. R. Hegler, Chas. Stocks, E. V. Albritton, H. J. Allison, W. T. Kensinger, L. M. Collier and Henry Baldwin.

The balance of the regular jury panel was discharged from further attendance on this term of court except seven who were excused until Friday morning.

George Bagle and Jack Tedford were appointed as bailiffs to attend this term of court.

Tuesday court appointed Manuel Parades as court interpreter.

The case of R. P. Segrist against John Marrah was dismissed on motion of plaintiff also the case of D. G. Grantham versus G. W. Swift at plaintiff's cost.

G. U. McCrary was entered as associate counsel for defense in the case of the territory against Mitchell.

The trial of Mitchell proceeded with the following witnesses: Jose Garcia, J. S. Eaves, M. E. Sewalt, W. C. Griffin, Pedro Memos.

### Water Users' Meeting.

The Water Users met Tuesday and the secretary reported that to date 148 applications for water rights had been made covering 7,057 acres of land. The sale of land was progressing well, sales of 2,000 acres had been reported to the association since the first of the year.

The letter from the Secretary of the Interior granting water to lands with permanent crops, though the owners were not qualified to perfect water rights, was read and the secretary directed to notify the parties concerned of this action. It appears that each application must be acted upon separately and on its merits.

The secretary was also instructed to prepare an article for the "Earth" as D. L. Meyers had requested.

After disposing of the regular routine business the Board adjourned.

### Rank Foolishness.

"When attacked by a cough or a cold, or when your throat is sore, it is rank foolishness to take any other kind of medicine than Dr. King's New Discovery," says C. C. Eldridge, of Empire, Ga. "I have used New Discovery for seven years and I know it is the best remedy on earth for coughs and colds, croup, and all throat and lung troubles. My children are subject to croup, but New Discovery quickly cures every attack." Known the world over as the King of throat and lung remedies. Sold under guarantee at Eddy Drug Store, 50c and \$1.00. Trial bottle free.

### For Sale

At Hopedale ranch. Kaffir corn \$1.25 per hundred. Cane seed \$2.25 per hundred. White Wyandotte, good winter layers. Eggs \$1.00 per setting. Jersey Bull calves thoroughbred at farmers prices. W. B. Wilson. Carlsbad.

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### THE STAR PHARMACY

THE QUALITY STORE

### Malaga News Items.

A. Montgomery went to Carlsbad Friday.

Creed W. Larremore went to Artesia Friday.

J. R. Blair went to Artesia Friday, returning Wednesday.

Dr. McPherson is still sick with la grippe.

Mr. McElroy moved from the Bruce house into a tent this week.

J. T. Sanford moved into the Bruce house on Wednesday.

J. A. Hartshorn moved into the house vacated by Sanford.

John Warner and son drove down from Carlsbad Tuesday to take care of their orchard.

Grading on the public road between this place and Florence started this week.

Farmers expect water to be turned into Black river from the canal this week.

S. R. Hobbie returned Thursday from a few days stay at Roswell.

C. L. Higday was a visitor for a few days last week. He started Friday for Wichita, Kansas.

Claude Lewallen went to Carlsbad last Friday.

The Parsonage was completed last week and is occupied by the pastor, H. Wheeler.

Mrs. Morgan Livingston was a visitor here Tuesday.

W. P. McElroy is planning to begin the construction of a house of cement blocks soon. It will be located east of the railroad track.

Mrs. M. Livingston and Anna Hoag drove to Livingstons ranch Wednesday.

Miss Leah E. Hutchison spent Saturday and Sunday with home folks in Carlsbad.

J. T. Sanford will begin the erection of a dwelling on the west side at an early date.

Mr. and Mrs. J. A. Hartshorn went to Carlsbad, Tuesday, returning Wednesday.

The box supper given last Saturday night, proved quite a success. The proceeds amounted to \$50.

Spencer Faville, of Lookout was in town Wednesday buying supplies for his farm.

C. H. Billings went to Carlsbad Monday. He is sick in the hospital with typhoid.

L. E. H.

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and afterward in talking it over the jurors all agreed the defendant was undoubtedly guilty of first degree murder. The two who voted for second degree asked that the court inform them whether or not the death penalty could be eliminated if a verdict of first degree was found. When informed in the negative it is said the two jurors held for second degree and rather than have a hung jury all agreed to second degree. It seems there was some doubt as to whether or not a quarrel took place between Lewis and Terhune at the time of the murder. At about seven the jury came in bringing the following verdict:

We the jury in the above entitled cause find the defendant Mose Lewis guilty of murder in the second degree as charged in the indictment.

J. D. H. REED, Foreman.

D. W. Elliott and John T. McClure of Roswell, defended Lewis without reward, being appointed by the court. They incurred considerable private expense and do not feel like putting up the \$300 to carry the case to the supreme court, consequently

The panel being incomplete the court proceeded with the assistance of the clerk to draw jurors from the wheel. At ten p. m., the following were selected to fill out the venire of the grand jury:

L. A. Swigart, E. S. Sprong, J. D. Harvey, W. P. Mudgett, W. P. Sellers, Robt Hamblin, who with the following constitute the grand jury for this term: F. L. Hopkins, Orville Beals, Wm E. Clark, M. Saul, Wm Matheson, J. F. Joyce, G. A. Beckett, J. C. Draper, Phillip Ramuz, W. H. Wilson, W. S. Jolly, Hubert Keith, L. J. Ryan, Francis Witig, Dolph Lusk, L. A. Swigart was appointed foreman by the court and A. C. Kilgore bailiff to the grand jury. W. W. Dean was appointed type writer for the grand jury.

The case of the territory against Bishop M. Mitchell for grand larceny was called with District Attorney L. O. Fullen assisted by Gatewood & Armstrong prosecuting and Bujac & Brice defending. Eight of the regular jury panel were accepted at once. Twelve names were drawn from the wheel and a special venire summoned.